

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

C.H. Robinson Worldwide, Inc.,
Plaintiff,

Case No. 10-cv-1143 DSD/FLN

v.

AFFIDAVIT OF JAMES MACY

Maxxum Group, LLC, et al.,
Defendant.

STATE OF OHIO)
) ss.
COUNTY OF CUYAHOGA)

I, JAMES MACY, after being duly sworn state the following:

1. I am over eighteen years of age and am competent to testify to the matters set forth herein upon my own personal knowledge.

2. I am a General Manager for CH Robinson Worldwide, Inc. ("CHRW").

3. I have had several conversations with numerous individuals associated with Maxxum Group ("Maxxum") and its affiliates. I have discovered that the owners of Maxxum are Alex and Debra Kowalski, Peter Kowalski and David Griffiths. I have been advised that Defendant Brian Donahue was Maxxum's Vice President of Finance and lives with Alex Kowalski's sister-in-law. Defendant Andrew Kowalski is Alex Kowalski's brother and was also a senior member of the management team as the Material Acquisition Specialist.

4. An affiliate of Maxxum is M-Pad, LLC ("M-Pad"), which is located at 4740 Manufacturing Avenue, Lakewood, OH. ("Manufacturing Avenue Location"). M-Pad operates a densifier used in Maxxum's operations.

5. From 2007 to 2009, Maxxum contracted with Plaintiff to transport at least 219 separate shipments originating from Minnesota or having Minnesota as its destination. Attached hereto as Exhibit A is a true and correct copy of CH Robinson's Performance Report on Maxxum's account.

6. Attached hereto as Exhibit "B" are true and correct copies of Maxxum's requests for transportation services within Minnesota from January 2009 through September 2009.

7. In late February of 2009, Maxxum approached CHRW requesting that it be its sole transportation provider for shipments in North America. Defendant Donahue, as Maxxum's Vice President of Finance, provided consolidated financial statements. Based on the financial statements and Donahue's representations, CHRW extended \$500,000 in credit terms to Maxxum.

8. Over the next several months, Maxxum "ramped up" and ordered in excess of \$435,000 dollars worth of transportation services from CHRW. Maxxum also forged a business relationship with Ketter Resin Group in Indiana where many shipments were delivered.

9. Based on my conversations, I was advised that on September 2, 2009, Donahue, Alex and Andrew Kowalski, Tim Carter and Shawn Stine met. I was advised that Alex Kowalski informed those present that their employment would be terminated on

Friday, September 4, 2009. He then presented them with an "opportunity" to get involved with a new company called Tetrapoly. The proposal was that those present would be partners and Kowalski would rent the Manufacturing Avenue Location and M-Pad's densifier to Tetrapoly. The discussions also involved the profit split amongst them. The plan further included moving the Ketter Resin Group business to Tetrapoly.


10. On September 4, 2009, the phones at Maxxum went unanswered. Later in the afternoon, we reached Donahue on his cell phone and was informed that he no longer worked at Maxxum but rather, was a partner in a new business called Tetrapoly located at the Manufacturing Avenue Location. Shortly thereafter, I met with Donahue at the Manufacturing Avenue Location and confirmed with Donahue that Tetrapoly was using M-Pad's densifier located on-site. Donahue also told me that Tetrapoly purchased product from Maxxum and then re-sold it to Ketter Resin Group. CHRW is currently shipping product for Ketter Resin Group into the Manufacturing Avenue Location.

FURTHER YOUR AFFIANT SAYETH NAUGHT.



James Macy

Subscribed and sworn to before me
this 27 day of May, 2010.



Notary Public

COYAHOGA COUNTY
EXPIRES Sept. 19, 2011